

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
MILWAUKEE DIVISION**

JAMES C. HULCE, *individually and on
behalf of a class of all persons and entities
similarly situated,*

Plaintiff,

v.

ZIPONGO, INC. d/b/a FOODSMART,

Defendant.

Case No. 2:23-cv-00159-LA

**JOINT MOTION FOR EXTENSION OF PHASE I DISCOVERY AND TO SET
BRIEFING SCHEDULE ON DISPOSITIVE MOTION**

Plaintiff James C. Hulce (“Plaintiff”) and Defendant Zipongo, Inc. d/b/a Foodsmart (“Foodsmart” or “Defendant”) hereby move for a brief, one-month extension of Phase I Discovery on Plaintiff’s individual claim—through October 1, 2023—and to set a briefing schedule on Defendant’s forthcoming Motion for Summary Judgment. The Parties jointly state as follows in support:

1. This case is a putative class action in which Plaintiff alleges violations by Defendant of the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227.

2. Pursuant to the Parties’ agreement in their Rule 26(f) report, and after the Rule 16 conference, the Court entered a scheduling order that initially limited discovery to Plaintiff’s individual claim (“Phase I Discovery”) before any class discovery would commence given certain threshold issues. ECF 22. That discovery was to be completed no later than September 1, 2023.

Id.

3. The Parties have diligently engaged in discovery since it opened, with both sides exchanging written discovery responses and documents related to Plaintiff's individual claim, in addition to taking Plaintiff's deposition. But the Parties require additional time to finalize their good-faith discovery efforts. Defendant specifically still needs to finish its production of relevant documents and permit Plaintiff to conduct a deposition of Defendant's corporate representative.

4. The Parties thus jointly ask the Court to extend: (a) the Phase 1 Discovery period through October 1, 2023; and (b) Defendant's related deadline to file a dispositive motion through October 31, 2023.

5. Because of the upcoming Thanksgiving holiday, the Parties also propose the following briefing schedule for Defendant's dispositive motion:

October 31, 2023	Summary Judgment Motion Due
December 8, 2023	Opposition to the Summary Judgment Motion Due
December 22, 2023	Reply in Support of the Summary Judgment Motion Due

6. This Joint Motion is not offered for the purposes of delay or any other undue purpose. Nor will this joint request prejudice either party. Indeed, both Parties agree to this stipulated extension and believe it will promote the expeditious resolution of this case. *See* Fed. R. Civ. P. 6(b) (stating the Court has power to extend deadlines for good cause)

Accordingly, the Parties jointly request that the Court extend the Phase 1 Discovery period through October 1, 2023 and enter the above briefing schedule for Defendant's Summary Judgment Motion.

[Signatures Appears on Following Page]

Dated: September 1, 2023.

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CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of September, 2023, I electronically filed the foregoing document in the United States District Court for the Eastern District of Wisconsin, with notice of same being electronically served by the CM/ECF system, to all attorneys of record.

/s/ James M. Ruley
James M. Ruley